

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

LONE STAR FUND IV (U.S.), L.P.,  
LONE STAR FUND IV (BERMUDA), L.P.  
and LSF-KEB HOLDINGS SCA,

Plaintiffs,

v.

STEVEN H. LEE,

Defendant.

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CIVIL ACTION NO.  
3:09-cv-01614-B

**OBJECTIONS TO DECLARATION OF STEVEN H. LEE**

TO THE HONORABLE COURT:

Plaintiffs Lone Star Fund IV (U.S.), L.P., Lone Star Fund IV (Bermuda), L.P., and LSF-KEB Holdings SCA (“**Plaintiffs**”) object to the *Declaration of Steven H. Lee in Support of Motion to Dismiss Original Complaint* (the “**Lee Declaration**”), which was submitted in connection with *Defendant’s Opposition to Plaintiffs’ Motion to Remand and for Fees and Costs*, and would show the Court as follows:

**I. OBJECTIONS**

Plaintiffs object to paragraph 23 of the Lee Declaration (and the documents referenced therein, including Exhibits F and G to the Lee Declaration) for the reason that the statements therein are irrelevant and contain improper legal conclusions. This information has no relevance to the pending Motion to Remand and is improperly conclusory. FED. R. EVID. 401, 402, 403. *See, e.g., Coker v. Dallas County Jail*, No. 3:05-CV-005-M (BH), 2009 WL 1953038, at \*6 (N.D. Tex. Feb. 25, 2009) (“Affidavits setting forth ultimate or conclusory facts and conclusions of law are insufficient to either support or defeat a motion for summary judgment . . . . Such

unsupported conclusory statements in an affidavit should be stricken from the record.”); *Clark v. America's Favorite Chicken Co.*, 110 F.3d 295, 297 (5th Cir. 1997)

## II. PRAYER

WHEREFORE, premises considered, Plaintiffs respectfully ask this Court to strike Paragraph 23 of the Lee Declaration and the documents referenced therein, including Exhibits F and G to the Lee Declaration, and for such other and further relief as is just and proper.

Respectfully submitted,

/s/ Jane Ann R. Neiswender

Karen L. Hirschman

State Bar No. 09721500

Matthew W. Moran

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Jane Ann R. Neiswender

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*Attorneys for Plaintiffs*

## CERTIFICATE OF SERVICE

I certify that, on October 23, 2009, I caused to be served a copy of the foregoing document via the Electronic Case Filing system for the United States District Court for the Northern District of Texas on Jerome R. Doak and by first class U.S. Mail on George T. Manning.

/s/ Jane Ann R. Neiswender

Jane Ann R. Neiswender